



Cayman clarifies trust law on “firewall” legislation and scope of jurisdiction clauses

In *Geneva Trust Company (GTC) SA v IDF & Anr (Re Stingray Trust)* (judgment 21/12/20) the validity of a Cayman trust was being challenged by its settlor (acting through a guardian) in separate Italian proceedings. Though the trustee had lost an Italian jurisdiction challenge, it pressed rival claims of its own in the Cayman Islands for a declaration that the trust was valid.

The settlor applied in Cayman for a stay on grounds of *forum non conveniens*. The trustee argued that the Cayman court could not grant such a stay because s. 90 of the Cayman Trusts Law imposed exclusive jurisdiction on the Cayman court in respect of questions going to the validity of a Cayman trust. It said that this was the orthodox view of the section based on authorities stretching back 20 years. Kawaley J, having reviewed the authorities, found that none was persuasive or binding to that effect, nor was such the proper reading of the statute (s. 90 was a choice of law provision, not a



jurisdiction provision), and he had power to grant a stay. A stay was granted conditionally on the Italian court applying Cayman law to the challenge to the trust.

The trust deed also contained a clause that the Cayman courts are the forum of administration of the trust. Kawaley J found that such a clause is not an exclusive jurisdiction clause enforceable against a party when suing as a *stranger* to the trust; and even had it been so (drawing on dicta from *Crociani* as to the weight to be afforded such clauses) the court would not have enforced it against the settlor on the facts.

Though the *Geneva Trust* case arose in a specific Cayman context, the similarity of its legislation to that in other



offshore jurisdictions and the more general application of the findings on forum of administration clauses make it an important decision for trust litigators practicing in the international sphere. Dakis Hagen QC appearing with Rachael Reynolds and Deborah Barker Roye (both of Ogier) represented the successful applicant. The full judgment is accessible [here](#).

Dakis Hagen QC